

Public Hearing
October 9, 2003

A Public Hearing was held October 9, 2003 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to Consider Local Law No. 2 of the year 2003 entitled "Amendment to the Code of the Town of Marilla" that will establish code requirements defining, regulation, reviewing, permitting and processing Recreational Development-Construction and Operation of Golf Courses and Associated Activities. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (15) persons were in attendance. Officials present were:

John R. Foss, Supervisor
Earl Gingerich, Jr., Councilman
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman

Supervisor Foss stated that the Public Hearing on Local law No.2 was now open and asked if there was any interested person who desired to be heard.

Hearing no comments from those in attendance, the hearing was closed at 7:32 p.m.

Respectfully Submitted,

Public Hearing
October 9, 2002

A Public Hearing was held October 9, 2003 at 7:35 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to provide an opportunity for citizens to express community development and housing needs and to discuss possible projects or programs to meet those needs, particularly projects which would benefit low and moderate income persons in the Town of Marilla.

The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (15) persons were in attendance. Officials present were:

John R. Foss, Supervisor
Earl Gingerich, Jr., Councilman
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman

Supervisor Foss stated that the Public Hearing regarding the use of Federal Community Development funds in the Town of Marilla was now open. Supervisor Foss asked for public comment.

Hearing no comments from those in attendance, the hearing was closed at 7:36p.m.

Respectfully Submitted,

Town Clerk

Public Hearing
October 9, 2003

A Regular Meeting of the Marilla Town Board was held October 9, 2003 at 7:40 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John R. Foss, Supervisor
Earl Gingerich, Jr., Councilman
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

Notice from Willey Enterprises of WNY, located at 11615 Clinton Street, that they have applied for a New York State Liquor License.

Erie County Clerk, David Swarts informing residents that they can now apply, get background checks and be fingerprinted in the County Clerk's Office for pistol permits.

Committee Reports

Highway Superintendent Dave Pierce reported that Bullis Road will be closed from October 9th until November 10th, between Three Rod Road and Eastwood Road for a culvert replacement. He also reported that Three Rod Road should be done in a couple of weeks and the Pavilion parking lot has been paved.

Councilman Gingerich reported that Veteran's Day will be on November 9th, the parade will be at 1:00 pm. The Marilla Library Board met and rejected the idea of consolidating the Elma and Marilla Libraries. They felt the time and money spent in recent years on the Library renovations and the convenience of its location to residents they would not be interested in consolidation. He also reported that the next Sesqui-Centennial meeting will be held on October 29th at the Marilla Town Hall and the drawing for the Sesqui-Centennial raffle will be held on November 9th. He stated that the Grant Application for PACE was turned in on Monday, we are applying for three owners and, four parcels totaling 180 acres. The next CAB meeting will be held on November 11th at 7:30 pm to work on PACE issues.

Councilman Spanitz reported that the Pavilion is almost finished. To date 238 Veteran's bricks and 163 regular bricks have been sold.

Councilman Gertz reported that the Town Hall parking lot had been striped to address some safety concerns.

Supervisor Foss reported that the County will fund \$5,000 toward the Map, Plan and Report for Water District VI, which will make the Town's share \$1,150. We should begin the petition process this spring for this district. He reported that the Pavilion sidewalk should be finished in the next week and a half, as well as the Pavilion itself. He stated that there will be a statement on the lawsuit settlement for Water District II later in the meeting.

Open Board Presentation From the Public

None

Old Business

Motion: Councilman Gingerich moved, seconded by Councilman Specht to approve the Minutes from the Special Meeting held on 9/9/2003 and the Regular Board Meeting held on 9/11/2003. Motion Carried.

Public Hearing
October 9, 2003

New Business

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to authorize John R. Foss, Town Supervisor, to sign the Negative Declaration of proposed Local Law No. 2 for the State Environmental Quality Review Act as follows:

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law to amend the Code of the Town of Marilla to better regulate the construction and operation of golf courses in the Town of Marilla; and

WHEREAS, the Town Board of the Town of Marilla is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, the proposed action appears to be an Unlisted Action pursuant to the Rules and Regulations of the State Environmental Quality Review Act and the Town of Marilla by resolution adopted on September 11, 2003 determined that a coordinated review should be conducted and that it was the most appropriate body to act as lead agency under SEQRA and duly notified all other involved agencies as required by law; and

WHEREAS, County Planning has also been notified as required under Section 239-m of the General Municipal Law as well as all entities required to be notified under Town Law Section 264; and

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the Environmental Assessment Form, reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment; and be it further

RESOLVED, that the Town Board of the Town of Marilla hereby finds that the proposed responses inserted in Part II of the said Environmental Assessment Form are satisfactory and approved; and be it further

RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and execute the Part III of the said Environmental Assessment Form and to check the box thereon indicating that the proposed action will not result in any significant adverse impacts; and be it further

RESOLVED, that the annexed Negative Declaration is hereby approved and the Town Clerk is hereby authorized and directed to file the same in accordance with the provisions of the General Regulations of the Department of Environmental Conservation.

Roll Call Vote:

Supervisor Foss – aye

Councilman Specht – aye

Councilman Gingerich – aye

Motion Carried.

Councilman Spanitz – aye

Councilman Gertz – aye

Public Hearing
October 9, 2003

Motion: Councilman Specht moved, seconded by Councilman Gingerich to approve Local Law No. 2 of the year 2003 entitled “ Amendment to the Code of the Town of Marilla”.

Roll Call Vote:

Supervisor Foss – aye

Councilman Spanitz – aye

Councilman Specht – aye

Councilman Gertz – aye

Councilman Gingerich – aye

Motion Carried.

(See attachment marked 2003-a for full context of Local Law)

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to approve the following Resolution:

RESOLVED, the Marilla Town Board supports the original Returnable Beverage ACT of 1982, the proposed additions to the Bill and the sharing of held moneys with those entities, including Marilla, who have worked hard to make recycling successful.

Roll Call Vote:

Supervisor Foss – aye

Councilman Spanitz – aye

Councilman Specht – aye

Councilman Gertz – aye

Councilman Gingerich – aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz approve the following Resolution:

WHEREAS, the Town Board has been advised that the house constructed on 3674 Woodbrook Court encroaches approximately 2.19 feet into a 30 foot wide town drainage easement that runs between the property at 3674 Woodbrook Court and the parcel that located to the Northeast of 3674 Woodbrook Court; and

WHEREAS, Jay J. Hennig and Katharina Hennig, the owners of 3674 Woodbrook Court have requested that the Town of Marilla release that portion of the 30 foot wide drainage easement on which their house encroaches; and

WHEREAS, the Town Board has reviewed the request and discussed it with the Town Attorney and has determined that the encroachment is minor and that the remaining easement area is sufficient for Town drainage purposes.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Town Board does hereby agree to release that portion of the 30 foot wide Town drainage easement upon which the house at 3674 Woodbrook Court encroaches as shown in the survey prepared by James L. Shisler, L.S., P.C. dated December 8, 1988 and resurveyed 11/8/90 and 9/5/03.
2. That the Town Supervisor is hereby authorized to sign the Partial Release of Easement and the other documents required to release that portion of the easement of record.
1. This resolution shall take effect immediately.

Roll Call Vote:

Councilman Spanitz – aye

Councilman Specht – aye

Councilman Gertz – aye

Councilman Gingerich – aye

Supervisor Foss – aye

Motion Carried.

Public Hearing
October 9, 2003

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to authorize John R. Foss, Town Supervisor to sign, submit and execute a contract with Erie County Community Development Block Grant (ECCDBG) program for the following projects upon approval of ECCDBG.

1. Rural Transit – The Supervisor is also authorized to submit a letter committing the Town of Marilla to the Rural Transit Program for 2004-2005. Motion Carried.

Motion: Councilman Gingerich moved, seconded by Councilman Specht to authorize the Town of Marilla to participate in the Rural Transit Van Service for 2004 and 2005. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to authorize the Town of Marilla to apply for a Grant proposal through Rural Transit . Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the following Resolution:

WHEREAS, the Town Board of the Town of Marilla pursuant to the provisions of the Local Law Regulating Unsafe Buildings and Property in the Town of Marilla notified Lynne M. Roche the owner of property at 12008 Williston Road of the probably existence of unsafe conditions on the property and a hearing was duly held before the Town Board on February 11, 2003 at which hearing Michael Roach and Lynne M. Roche were present and provided testimony; and

WHEREAS, following such hearing the Town Board adopted a Resolution and Order after Hearing Determining that there was an unsafe condition on the property and Directing the Removal of Structures and Junked Motor Vehicles on Property Located at 12008 Williston Road, Marilla owned by Lynne M. Roche; and

WHEREAS, the Resolution and Order was duly served on Lynne M. Roche requiring that removal of the Junked Motor Vehicles be commenced within 30 days of the date of the mailing of the Resolution and Order and removed within 60 days thereafter; and

WHEREAS, pursuant to such Resolution and Order, Lynne M. Roche was provided with the opportunity to provide a report from a licensed engineer or architect certifying that the basement walls are structurally sound accompanied by a set of plans for a new structure; and

WHEREAS, Lynne M. Roche has failed to obtain such report or to remove the structures and complete the cleanup and the time to do so has expired.

NOW, THEREFORE BE IT RESOLVED

2. That the Town Supervisor is hereby authorized to contract for the services of a contractor and/or contractors to remove debris from property located at 12008 Williston Road and to remove the remains of the foundations and restore the site to a safe condition.
3. That the costs of such work shall be assessed back upon the property and placed on the town tax bill
4. This resolution shall take effect immediately.

Roll Call Vote:

Councilman Spanitz – aye Councilman Specht – aye
Councilman Gertz – aye Councilman Gingerich – aye
Supervisor Foss – aye
Motion Carried.

Public Hearing
October 9, 2003

Motion: Councilman Spanitz moved, seconded by Councilman Gingerich to authorize the Town Supervisor to sign a contract with Nussbaumer & Clarke, Inc. to prepare the Final Application to Rural Development/Rural Utilities Service Assistance for Water District V at a cost of \$4,215. Motion Carried.

Supervisor Foss stated that we now have 55-60% of the signatures for approval of the Water District. We are now at a point we can proceed.

Motion: Councilman Specht moved, seconded by Councilman Spanitz to authorize the Supervisor to pre-pay the Town of Marilla's share of a TDM-150 CRT Based Console System with warranty & installation for the East Aurora Base Station that dispatches Fire and Police calls for South Wales, Aurora-Colden#6, Aurora District #1. Elma, Holland, Marilla, Wales Fire Protection, Wales District #1, as well as the Village of East Aurora, at a cost for Marilla of \$9,653.15 upon the recommendation of Councilman Gertz. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Gingerich to authorize a new street light on Bullis Road between West Ave. and Two Rod Rd. below the Pavilion. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the Water District II settlement as follows:

Milherst will provide a written enforceable guarantee to make all repairs that the town is otherwise liable for under its lease with the Erie County Water Authority, attributable to Milherst's performance" and "that Milherst provide a performance bond securing the previous obligation for a period of five years, from an insurance company, in an amount of \$25,000." After the 5-year period, Milherst Construction and Lu Engineering will be required to pay the town in an annuity of \$5,677.86 annually for 20 years, beginning on June 1, 2008, the sum would total approximately \$113,557. In addition, Milherst Construction would be required to "surrender its claim to the approximately \$6,000 retainage payable under the construction contract and assign this sum to the town to use at its discretion.

Roll Call Vote:

| | |
|--------------------------|----------------------------|
| Councilman Spanitz – aye | Councilman Specht – aye |
| Councilman Gertz – aye | Councilman Gingerich – aye |
| Supervisor Foss – aye | |
| Motion Carried. | |

Supervisor Foss stated that the town has spent approximately \$101,616 in various fees over the years of the lawsuit.

Report of Town Officials

Town Engineer Marie Nowak reported that she had spoke to Ellen Grant from the Town of Bennington, Ms. Grant said that they had given their water study to an Engineering firm in Rochester and she was not sure what the status was at that point. I explained to her that we are proceeding with Water District V, but we would give them enough notice to hook on if they are interested in doing so.

Building Inspector John Fronczek submitted a written report with 13 building applications received with fees totaling \$1,673.00, 13 building permits issued with a total value of \$278,400.00, 22 inspections were made and 1 complaint was acted on. There were a total of 221 activities.

Planning Board minutes received and posted, the next meeting will be October 16th at 7:30 pm.

Public Hearing
October 9, 2003

CAB minutes have been received and posted.

Town Historian Hubert Kutter reported that there will be a presentation from Jim Gingerich on the History of Marilla on October 28th. The next Library Board Meeting will be held on October 21st.

Open Board Presentations

Councilman Gingerich stated that Marilla was included in a pamphlet put out by the American Farmland Trust discussing Erie County Farming and the urban edge.

Supervisor Foss wanted to thank all the people who have worked very hard on the Pavilion.

All claims have been previously reviewed by Councilman Spanitz and Councilman Gertz.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to approve the claims as follows:

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|---------------------------------------|----|-----------|
| General Fund Claims, Vouchers 427-473 | \$ | 9,739.65 |
| Highway Fund Claims, Vouchers 159-174 | \$ | 6,118.14 |
| Special Districts | | |
| Sanitation (SR), Vouchers 106-114 | \$ | 13,327.03 |
| Special Lighting, Voucher | \$ | .00 |
| Special Fire, Voucher | \$ | .00 |
| Water District #2, Vouchers 29-31 | \$ | 2,457.92 |
| Water District #3, Voucher 12 | \$ | 1,231.19 |
| Water District #4, Vouchers 10 | \$ | 743.59 |
| Community Develop. PACE voucher | \$ | .00 |

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gingerich to adjourn at 8:10 p.m. Motion Carried.

Respectfully submitted,

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| _____ Town Clerk | _____ Supervisor |
| _____ Councilman | _____ Councilman |
| _____ Councilman | _____ Councilman |